681 half of his sentence in cases of imprisonment
671 for a lesser period, be granted conditional release upon application of the prison authorities to the highest judicial administration. The sphere of conditional release has been enlarged by a series of measures controlling convicts, which took effect on August 23, 1954.

The Code of Criminal Procedure was promulgated by the Nationalist Government on January 1, 1935, and enforced on July 1, 1935. The main features of the code may be stated as follows:

693 A. Public Prosecution. The procurator rep-
671 resents the state. He institutes public prosecution when the evidence obtained during preliminary investigation is sufficient to warrant suspicion of the accused. Public trial may be instituted even if the whereabouts of the accused is unknown.

The Code of Criminal Procedure provides that no complaint may be filed charging offenses against morality or the institutions of marriage and the family except by a particular party such as the lineal descendants by blood of the parties concerned or the spouse, as specified in the code.[3] A procurator need not prosecute cases involving offenses he considers obviously trivial and pardonable.

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3. Articles 230, 239, 240, Criminal Code, 1935.

693 694 B. Private Prosecution. A private person may introduce criminal prosecution. The responsibility for the instigation of prosecution rests upon the aggrieved individual; he is granted the opportunity to avail himself of possible redress in cases where the procurator has not brought charges. Private prosecution may not begin if the procurator has already completed a preliminary investigation in the same case. However, if the procurator knows, prior to the completion of his preliminary investigation, that private prosecution has been instituted, he shall immediately cease investigations and send the case to the court, since two complaints cannot be filed in a single case.

693 695 The court shall, upon receipt of a private petition for prosecution, immediately send a copy of the complaint to the accused and notify the procurator of the date set for hearing of the private prosecution; whereupon the procurator may appear in court and express his opinion. The judge will then conduct the trial in accordance with the provisions of the Procedural Code.[4]

C. Advocate and Public Defender. Upon the institution of charges against an individual, the accused may employ one to three advocates. If no counsel has been employed, the presiding judge shall assign a public defender for the accused in cases where the minimum punishment

4. Articles 320, 340, Code of Criminal Procedure, 1935.

693 is not less than one year of imprisonment or
695 in cases where a higher court takes jurisdiction as a court of first trial. The public defender system had been in use for some years on the Mainland; and was introduced in Formosa on June 1, 1950.

695 D. Trial and Appeal. Most criminal cases may
692 go through as many as three courts -- the district court, the high court, and the supreme court. The district court handles the first trial of all criminal cases except those for which special provisions have been made by law. The organic law governing courts provides that the high court be given jurisdiction over the first trial for offenses against the internal and external security of the state and offenses against the property or persons of a friendly foreign state.[5]

695 In cases involving the trivial offenses enumerated in Article 61 of the Criminal Code, the court of first trial may, upon application by the procurator, order the sentencing of the offender without observing the usual trial procedure, if the accused has confessed during the preliminary investigation or other evidence sufficient for conviction has been offered the court. Such a sentence is limited to a fine, detention, or not more than six months' imprisonment.[6]

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5. Article 10, Organic Laws Governing Court, 1932, and Article 4, Code of Criminal Procedure, 1935.

6. Article 442, Code of Criminal Procedure, 1935.

625 blown up and water works wrecked if the Com-
648 munists had had their way. The lives of responsible personages would have been in constant danger, too. Then, the risk of internal trouble during a possible invasion from outside would have been very grave."[17] It appears that, in order to save Formosa from Communist domination, rigid government control may not be entirely indefensible.

722 During the past few years, as conditions
698 on the island grew more stable, the Nationalist
693 Government has been taking measures to guard against unwarranted arrest and imprisonment. In a decree issued on January 29, 1951, the Executive Yuan prescribed that public defenders should be provided in the military court to defend persons accused of violating martial law in cases where the minimum punishment would be not less than five years' imprisonment. A spouse, lineal blood relative, collateral blood relative within third degree, or a statutory agent may be present at the trial and testify on behalf of the accused.

722 Since 1949 Formosa has been subject to
698 martial law. Article 8 provides that the following offenses committed in strategic zones may be tried by the military court: (a) offenses against the internal security of the state, (b) against the external security of the state, (c) against public order, (d) against public safety, (e) forgery, counterfeiting of currency, valuable securities, documents, (f) murder or homicide, (g) restraining personal liberty, (h) snatching, robbery, and piracy, (i) intimidation and kidnapping, and (j) malicious mischief. If provisions

17. Lih-wu Han, op. cit., p. 49.